



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 16, 1998

Mr. William M. Toles
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-0975

Dear Mr. Toles:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114023.

You inform us that the Dallas Police Department (the "department") received a request for the arrest report of the requestor and Patsy Mitchell, referenced by service number 1019420-F. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the arguments you have raised and have reviewed the documents at issue.

Pursuant to section 552.301(b) of the Government Code, a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office a copy of the written request for information nor a copy of the specific information requested or representative samples as required by section 552.301(b).


Based on section 552.303(c) of the Government Code, this office notified you by facsimile on March 16, 1998, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) of the Government Code failure to comply would result in the legal presumption that the information at issue is public information.

To date, you have not provided our office with the information that was requested in our notification to you. Consequently, we find that you have not met your burden under sections 552.301 through 552.303 of the act. Open Records Decision No. 195 (1978). Therefore, as provided by section 552.303(e), the information at issue is presumed to be public information.

Information presumed public must be released unless the governmental body demonstrates the existence of a *compelling interest* that overcomes this presumption. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). In the absence of compelling reasons as to why the information should not be made public, the requested information is presumed public and must be released.¹ Open Records Decision No. 195 (1978); *but see* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref: ID# 114023

cc: Mr. Bucky Mitchell
709 N. Story Road
Irving, Texas 75061

¹Generally, section 552.108 does not provide a compelling reason to overcome the presumption of openness. Open Records Decision Nos. 630 (1994), 473 (1987).